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8 Attorney for Defendant
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10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 OAKLAND DIVISION

14 UNITED STATES OF AMERICA,) NO. CR-07-00344 CW
15 Plaintiff,)
16 v.)
17 KENNETH EUGENE HOLLOWAY,)
18 Defendant.)
19 _____)
20 UNITED STATES OF AMERICA,) NO. CR-97-40059 CW
21 Plaintiff,)
22 v.)
23 KENNETH EUGENE HOLLOWAY,)
24 Defendant.)
25 _____)

26 **STIPULATION AND
ORDER CONTINUING CASE AND
EXCLUDING TIME**

27 THE PARTIES hereto stipulate that the matter, now
28 calendared for December 5, 2007, be continued to January 16, 2008,
at 2:00 p.m. Although the parties are engaged in settlement
discussions, a follow-up offer has not been conveyed to defendant in
sufficient time for it to be considered prior to December 5. In
addition, defendant has a pending state court felony case in Contra
Costa County which may affect the resolution of both the federal

STIPULATION AND ORDER CONTINUING CASE AND
EXCLUDING TIME

1 case and supervised release violation. (The date of December 19,
2 2007 is not available because the defendant has a court appearance
3 in his Contra Costa County case on that date and cannot be
4 transported to federal court.)

5 The parties further stipulate that the time between
6 December 5, 2007, and the next appearance in the matter on
7 January 16, 2008, should be excluded under the Speedy Trial Act, 18
8 U.S.C. § 3161(h)(8), for effective preparation of counsel. The ends
9 of justice outweigh the interests of the public and the defendant in
10 a speedy trial in this case. This exclusion is necessary to allow
11 time for the parties to effectively prepare and to allow for
12 continuity of counsel taking into account the exercise of due
13 diligence.

14 IT IS SO STIPULATED.

15

16 DATED: December 4, 2007.

17 _____
18 /s/
19 BRYAN R. WHITTAKER
20 Special Assistant U.S. Attorney

21 DATED: December 4, 2007.

22 _____
23 /s/
24 J. FRANK McCABE
25 Attorney for Defendant Holloway

26 I hereby attest that I have on file all holograph
27 signatures for any signatures indicated by a conformed signature
28 (/s/) within this e-filed document.

29

30 _____
31 /s/ Bryan R. Whittaker
32 Special Assistant U.S. Attorney

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34

35 STIPULATION AND ORDER CONTINUING CASE AND
36 EXCLUDING TIME

ORDER

2 For the foregoing reasons, the Court finds that good cause
3 is shown -- taking into account the public interest -- that an
4 exclusion of time between December 5, 2007, and January 16, 2008, is
5 warranted under the Speedy Trial Act because it will afford counsel
6 reasonable time necessary for effective preparation, taking into
7 account the exercise of due diligence. 18 U.S.C. §
8 3161(h)(8)(B)(iv). The Court finds that the ends of justice served
9 by excluding time under the Speedy Trial Act outweigh the best
10 interest of the public and the defendant in a speedy trial in the
11 prompt disposition of criminal cases. Id. at § 3161(h)(8)(A). The
12 Court, therefore, concludes that this exclusion of time is proper
13 pursuant to 18 U.S.C. § 3161(h)(8).

14 DATED: December 4, 2007.

Claudia Wilken
HON. CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE